IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION
WRIT PETITION NO. 1148 OF 2007.

Dr. Prithi Paul Singh Sethi
Age 47 years, Indian Inhabitant,
having his office at Jerbhai Wadia
Road, Bhoiwada, Parel, Mumbai-12 ..Petitioner.
V/s
1. The State of Maharashtra.

2. Senior Inspector of Police
GBCB CID (EOW), Office of the
Commissioner of Police,
Mahapalika Marg, Mumbai-1 ..Respondents.

Mr.Subhash Jha i/b M/s Law Global for the Petitioner.
Mr.M.S. Mhambre, APP for the respondents.

CORAM : R.M.S.KHANDEPARKAR AND
SMT. V.K. TAHILRAMANI, JJ.
DATE : 10TH JULY , 2007.

ORAL JUDGMENT (PER R.M.S. KHANDEPARKAR, J.)

. Heard Mr. Jha, learned Counsel for the Petitioner and Mr. Mhambre, learned APP for the respondents.

2. Rule. The learned APP waives service on behalf of the respondents. By consent rule made returnable forthwith.

3. By this petition, the petitioner is seeking direction for investigation concerning M.E.C.R. No.2 of

2005 lodged at Vakola Police station,Mumbai and transfer of the said investigation to any other investigating agency.

3. The records undisputedly disclose that pursuant to the private complaint filed before the Court against the persons, namely, Shri Kiran Kalantri, Shri Dinesh Kalantri and Smt. Sudha Kiran Kalantri by petitioner herein alleging commission of offence by these three persons under section 409, 419,420, 201 and 506(II) r/w section 34 of Indian Penal Code, the Metropolitan Magistrate directed the Vakola Police Station to investigate in terms of Section 156(3) of Code of Criminal Procedure and pursuant to which the F.I.R. as MECR 2 of 2005 came to be recorded and the investigating officer submitted a negative report, based on which the order came to be passed on 18th of April, 2007, accepting the said report and dismissing the complaint under section 203 of Cr.P.C.

4. After hearing the matter for considerable time, the learned APP., after taking instructions in the matter, submitted that on having gone through the records he finds that the matter needs proper

investigation and for that purpose it is necessary to set aside the order passed by the Metropolitan Magistrate on 18th April, 2007 on the negative report submitted by the investigating officer.

5. Mr.Jha, the learned Counsel for the petitioner, by drawing attention to the circular issued by the police authorities from time to time submitted that taking into consideration gravity of the alleged offences and the amount involved in the matter, the matter needs to be investigated by the Economic Offences Wing of the investigating machinery.

6. In view of the fact that the investigating machinery itself has found that the matter requires further investigation, by consent, the order dated 18th April, 2007 passed by the Metropolitan Magistrate in C.C. No. 179/Misc. of 2005 is hereby set aside, while accepting the submission on behalf of the respondents the investigating machinery is expected to investigate into the matter in relation to MECR No. 2 of 2005, registered at the Vakola Police Station as expeditiously as possible and to do the needful in the matter.

7. While setting aside the order dated 18th April, 2007, we do not find it necessary to issue notices to the persons, who are named as the accused, as the matter is merely at the stage of investigation and the accused persons have no right to interfere in the investigation proceeding. Needless to say that in case, the investigating machinery find it necessary to take the said accused or any one of them in custody, they will have to be issued 72 hours prior notice in that regard.

8. In the result, therefore, without expressing any views in the matter, the order dated 18th April, 2007 passed by the Metropolitan Magistrate in C.C.No. 179/Misc. of 2005 is hereby set aside. The MECR No.2 of 2005, registered at the Vakola Police Station, Mumbai stands revived. The Investigating Machinery to carry on the investigation by entrusting the same to the Economic Offences Wing Police Department in terms of Circular No.32 of 2007, dated 29th March, 2007. The Investigating Machinery is directed to carry out the investigation expeditiously and to do the needful in accordance with provisions of law. The petition is accordingly disposed of.

(R.M.S. KHANDEPARKAR, J.)

(SMT. V.K.TAHILRAMANI,J.)